

REMARKS

Claims 38-49, 74-75 and 80-82, elected for examination stand rejected as being anticipated by Douglas et al. '688 (hereinafter Douglas) in which is disclosed a compliance monitoring system and method in behavior modification including generation of compliance milestones to assist a patient toward achieving prescribed goals, e.g, in diet and exercise, based on established medical protocols.

The Examiner noted that the current application does not claim priority from PCT patent application WO/38909, with effective priority date through its listed priority applications to March 7, 1997. Douglas has an October 31, 1997 filing date, with priority filing dates of July 11, 1997 and Nov. 1, 1996, claimed from provisional applications No. 60/052,222 and 60/029,862, respectively. As the undersigned has not been able to obtain copies of these provisional applications, the priority date to which Douglas is entitled has not been able to be ascertained. The Examiner's assistance in that regard is requested.

Priority of the current application to the PCT application No. PCT/US98/03933 (WO 98/38909), having an international filing date of March 6, 1998 is claimed herein, supported by a petition for unintentionally delayed priority claim, accompanied by the required reference to the PCT application, a statement that the entire delay between the date the claim was due and the date the claim was made was unintentional, and payment of the surcharge specified under 37 CFR 1.17(t). Douglas accordingly is removed as prior art to the instant application, insofar as supportable by its priority application disclosures and the effective filing date of the instant application.

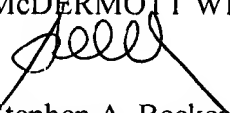
Added herein are claims 83-87, which are dependent from claims 38, 74, 75, 80 and 81, respectively. These claim clarify that the customized medical protocols recited in the independent claims include a *medication protocol customized for each patient*. Douglas does not teach or suggest the possibility of a customized medication protocol within its "medical protocols," designed for behavior modification. Pharmaceutical requirements are taken into account by the physician using the program described in Douglas, but no medication protocols are patient customized in Douglas. Douglas has nothing directly to do with medicinal practice. Accordingly, claims 83-87 are patentable even if Douglas were prior art to this application.

Favorable reconsideration of this application, as amended, is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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